

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 1:11-CR-243

v.

HON. ROBERT HOLMES BELL

ROBERTO GONZALEZ-VAZQUEZ,

Defendant.

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MEMORANDUM OPINION AND ORDER

Defendant Roberto Gonzalez-Vazquez has filed a motion for modification or reduction of sentence (ECF No. 20) pursuant to 18 U.S.C. §3582(c)(2) on the basis of Amendment 782 of the United States Sentencing Guidelines, made retroactive by the Sentencing Commission.

Section 3582(c)(2) permits a court to reduce the term of imprisonment of a defendant who has been sentenced based on a sentencing range that has subsequently been lowered by the Sentencing Commission. 18 U.S.C. § 3582(c)(2). Amendment 782 of the United States Sentencing Guidelines reduced by two levels the offense levels assigned to the quantities that trigger the statutory mandatory minimum penalties in U.S.S.G. §§ 2D1.1 and 2D1.11. These modifications were made retroactive effective November 1, 2014. U.S.S.G. § 1B1.10.

The Probation Department filed a sentence modification report on June 16, 2015 (ECF No. 23). In its report, the probation department did not recommend a reduction in sentence indicating the statutory mandatory minimum controls the sentence. The Defendant filed a response to the sentence modification report (ECF No. 27) on July 21, 2015, indicating that once the Safety Valve

reduction is given, there is no longer any mandatory minimum sentence to inhibit the Defendant's ability to qualify for the 2-level reduction under Amendment 782. The government also filed a response to the sentence modification report (ECF No. 28) on August 5, 2015, agreeing with defendant's assessment that he is entitled to a reduction under Amendment 782.

NOW THEREFORE, it appears a reduction of sentence is consistent with the policy statements of the U.S. Sentencing Commission.

IT IS HEREBY ORDERED that the Sentence Modification Report (ECF No. 23) is **OVERRULED**. Defendant's motion for modification of sentence (ECF No. 20) pursuant to 18 U.S.C. § 3582(c)(2) is **GRANTED**. Defendant Roberto Gonzalez-Vazquez's sentence shall be reduced to **59 months** imprisonment, effective November 1, 2015. An order effectuating the sentence reduction shall issue forthwith.

Dated: August 17, 2015

/s/ Robert Holmes Bell
ROBERT HOLMES BELL
UNITED STATES DISTRICT JUDGE